

PENSIONS TO NEEDY WAR VETERANS

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

SEVENTY-FIFTH CONGRESS

THIRD SESSION

ON

H. R. 8729

AN ACT GRANTING PENSIONS AND INCREASES OF
PENSIONS TO NEEDY WAR VETERANS

MAY 20, 1938

Printed for the use of the Committee on Finance



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PENSIONS TO NEEDY WAR VETERANS

FRIDAY, MAY 20, 1938

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 a. m. in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Senator GEORGE. The committee will come to order. We will proceed with H. R. 8729. General Hines, do you desire to be heard on this bill?

General HINES. Yes; Mr. Chairman, just briefly, if I may.

Senator GEORGE. Before we proceed further, I will have inserted in the record at this point the bill before us, H. R. 8729.

[H. R. 8729, 75th Cong., 3d sess.]

AN ACT Granting pensions and increases of pensions to needy war veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Veterans' Regulation 1 (a), part III, paragraph I (e), as amended, be amended to read as follows:

"I. (e) Except as provided in subparagraphs (g) and (h) of paragraph I hereof, no pension shall be payable under part III for permanent disability less than total. A permanent total disability shall be taken to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the individual to earn a support by the performance of manual labor where it is reasonably certain that such impairment will continue throughout the life of the disabled person. In addition to the cases covered by this definition the Administrator of Veterans' Affairs is hereby authorized to classify as permanent and total those diseases and disorders, the nature and extent of which in his judgment is such as to justify such a determination."

Sec. 2. That Veterans' Regulation 1 (a), part III, paragraph I (f), be amended to read as follows:

"I. (f) The amount of pension payable under the terms of part III shall be \$40 monthly: *Provided, That*".

Passed the House of Representatives May 4, 1938.

Attest:

SOUTH TRIMBLE,
Clerk.

STATEMENT OF GEN. FRANK T. HINES, ADMINISTRATOR OF VETERANS' AFFAIRS, VETERANS' ADMINISTRATION

General HINES. Mr. Chairman, and gentlemen of the committee: I appeared on this bill before the House committee and I would not desire to repeat my testimony if it is satisfactory to the committee. It has been printed and is available.

I would simply like to say that this contemplates increasing the rate of permanent and total which is paid to veterans for nonservice disabilities. Under the World War Veterans' Act that rate originally, if the committee will recall, was \$40 under the Disability Allowance Act

prior to the economy bill. When the economy bill was passed all disability allowances were wiped out, except for permanent and total disability. This bill would contemplate increasing the rate from \$30 to \$40, and modifies somewhat the definition of permanent and total disability.

Senator CLARK. In what respect is it modified?

General HINES. It modifies it in this respect, that it really takes the language of the old pension acts of where a man is unable to earn his support as against the language which is used where a man is permanently and totally disabled from carrying on a gainful occupation.

So far as the administration of the act, as we are now administering it, goes, we would be doing this: Many men who are rated now as permanently and totally disabled have, under our rating schedule which is on the average impairment as against the individual impairment, probable ratings from 60 to 80 percent.

Those are recommended when, over a period of 1 or 2 years, it is found the man is, with the aggregate of the disabilities plus his inability to carry on or obtain employment, gainful employment, in fact permanently and totally disabled, and we are putting on such cases even though the rating table does not contemplate a permanent and total rating on the average impairment. However, when the man is considered, from the individual point of view, to have his disabilities plus his inability to carry on, it is recommended with the approval of the administrator he goes on as permanently and totally disabled.

In my testimony before the House committee, if you will review it, you will find that the bill was not recommended by the Veterans' Administration. It is not in accord with the President's program as reported by the Acting Director of the Budget, and we take the stand that while the present unemployment conditions justify liberal dealing with veterans that have marked disabilities, and we feel that in the Administration we are taking care of all meritorious cases, that due to the unusual demands upon the Government for money at this time in other directions, we feel that this change in the law should be deferred.

We realize that some 400,000 veterans are out of employment. We are making efforts with the Department of Labor, and with the service organizations to gain employment for them, with some results, although not as gratifying as we would like to have.

The cost of the bill is not very great, but added to other expenditures—

Senator CLARK (interposing). How much would it be, General?

General HINES. \$5,182,000, is our estimate.

Senator LA FOLLETTE. As a matter of fact, General, these veterans are now getting into that age group where it is pretty difficult for them, is it not, once they are out of employment to get back?

General HINES. Yes, Senator; that is correct. That is true not only among veterans but others as well.

Senator LA FOLLETTE. I know; but they are getting into that age group where, under modern industrial conditions, the policy of the employer seems to be not to rehire the men when they get into that age group and they take on younger men. Is not that one of the reasons why these veterans are in distress and are having such difficulties?

General HINES. I think that is one of the reasons; yes. I think not all employers have raised that hurdle, but that is a hurdle. I

think the employers who have competition, as they are having these days, will take a young man if they can get a young man who can do the job.

There is one feature of this change, gentlemen, that I think should be kept in mind. The average payment to the service-connected cases, men whose disabilities are due to service, is about \$40.10 on an average. Now, that is not the permanent and total rate, of course, but I mean the average pay. To raise this rate to \$40 at this time in my judgment would bring demands for an increase in the service-connected rate. That is one feature that we feel should be considered.

We also feel that these men are going on the rolls quite rapidly under the present administrative procedure. Some 44,000 of them are so rated as permanent and total. To what extent the allowances under Social Security are being taken advantage of I have no data to present to the committee at this time. In a very few States a man who is drawing \$30 a month, who has advanced in age, could qualify for the \$30 under Social Security. To what extent that is going on we haven't any report at this time, but it should be considered.

We, for the reasons stated, are unable to recommend the bill. Undoubtedly as these men advance in years the committee will be called upon to probably advance the rate, but we did feel, in view of other demands, that the action on the bill should be deferred at this time.

Senator, that is all I have to say, except I would like to refer to and have placed in the record my testimony before the House committee, which gives in detail the analysis of a similar bill—H. R. 6294.

Senator GEORGE. That will be included as part of your statement here, General.

(The testimony of General Hines before the House Committee on Pensions, June 16, 1937, on H. R. 6294, is as follows:)

STATEMENT OF BRIG. GEN. FRANK T. HINES, ADMINISTRATOR OF VETERANS' AFFAIRS, VETERANS' ADMINISTRATION

General HINES. Mr. Chairman, do you wish me to cover the entire bill or just answer that question?

The CHAIRMAN. I think you had better cover the entire bill.

General HINES. Mr. Chairman, and gentlemen of the committee, this bill known as H. R. 6294 would grant a pension of \$40 a month to any needy war veteran who was honorably discharged and had served 90 days or more in the active military or naval service of the United States during any war, or who, having served less than 90 days was discharged for disability incurred in the service in line of duty, and who is now, or who may hereafter be suffering from any mental or physical disability or disabilities of a permanent character which so incapacitates him as to result in his inability to earn a living.

If such a veteran is now suffering from a mental or physical disability of a permanent nature which incapacitates him so that he is unable to earn his support, he comes within the provisions of the bill. The bill also includes income restrictions to the extent that unmarried persons whose annual income exceeds \$1,000 or a married person with a minor child whose income exceeds \$2,500 would not be entitled to receive the pension.

I believe, Mr. Chairman, that the bill can best be analyzed by my reading a letter, that is, our letter to you under date of June 12, 1937.

The letter is addressed to Mr. Gasque, chairman of the Committee on Pensions and is as follows [reading]:

"MY DEAR MR. GASQUE: This is in further reply to your letter dated April 13, 1937, requesting a report on H. R. 6294, Seventy-fifth Congress, a bill granting pensions and increases of pensions to needy war veterans. This bill is identical with S. 2218, Seventy-fifth Congress, with reference to the rate of pension which would be established for permanent and total disability; the bill is somewhat simi-

lar to H. R. 4357, Seventy-fifth Congress, on which a report was submitted to the chairman, House Committee on World War Veterans' Legislation, on May 10, 1937.

"The bill, in effect, would establish the rate of \$40 per month for any person who served 90 days or more in the active military or naval service of the United States during any war, who was honorably discharged therefrom, or who, having served less than 90 days, was discharged for disability incurred in the service in line of duty, and who is now or who may hereafter be, suffering from any mental or physical disability or disabilities of a permanent character which so incapacitates him so as to result in his inability to earn a living. The bill provides that the payment of such pension shall not be made to any unmarried person whose annual income exceeds \$1,000 or to any married person or any person with a minor child whose annual income exceeds \$2,500.

"It is not clear whether the bill is intended to repeal or modify existing laws or to provide concurrent separate benefits in addition to those already provided. It is obvious, however, that many veterans now entitled to benefits, particularly under part III of Veterans Regulation 1 (a), as amended, can meet the requirements of the bill. To remove any uncertainty as to the desired effect, the bill, if so intended, should specifically state what existing laws are to be repealed or modified."

As the bill is applicable to veterans of any war, it would have the effect of establishing a separate rate of service pension from those already provided by law for veterans of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, the Indian wars, and the Civil War, as well as the World War. As to the Indian wars, the present service pension is payable on the basis of 30 days' service or through a campaign, whereas the bill requires 90 days' service or discharge for disability incurred in line of duty. The Indian War veterans with lesser requirements of service are not entitled to \$50 per month in total disability cases. In the case of Spanish-American War veterans with 90 days' service or discharge for disability incurred in line of duty, the rate provided is \$60 per month for total disability, with a rate of \$72 per month where there is need for regular aid and attendance. All Civil War veterans who served 90 days, or having served less were discharged for disability incurred in service are entitled to a pension of \$75 per month, regardless of age or disability, with a rate of \$100 per month if in need of regular aid and attendance.

Considering the legislative history of the various service pension acts applying to wars prior to the World War, it is apparent that the bill not only would inject a single rate based upon criteria entirely different from those now established by law, but with the exception of the 70 days' service—Spanish-American War, would be less than the established rate for total disability. It is believed that proposed legislation, with reference to the service pension rates, pertaining to any particular war should take into consideration the legislative history, the needs of the particular group, and the desirability of avoiding any conflicting system of laws. Furthermore, it is believed that the proposal, insofar as it affects the wars prior to the World War, would introduce inequalities.

Considering the World War, prior to the enactment of Public, No. 2, Seventy-third Congress, March 20, 1933, provision was made by the act of July 3, 1930, an amendment to the World War Veterans' Act, 1924, as amended, for the payment of disability allowance to honorably discharged World War veterans who entered service prior to November 11, 1918, and served 90 days or more in the active military or naval service, and who met the other requirements of that act. Benefits were payable at the rate of \$12, \$18, \$24, and \$40 per month for permanent disabilities rated at 25 percent, 50 percent, 75 percent, or total disability, respectively. One of the reasons which led to the enactment of Public, No. 2 was the feeling that the disability allowance, law was too liberal and that a retrenchment should be effected in the field of non-service-connected benefits to World War veterans. Public, No. 2 repealed the disability allowance provision and under that act and the veterans' regulations promulgated pursuant thereto provision was made for the payment of non-service-connected pensions to World War veterans only for permanent total disability and at the rate of \$30 per month.

H. R. 6294 would increase the existing rate from \$30 to \$40 per month or 33½ percent. The history of military pensions discloses that over a long period of years the non-service-connected total disability group of veterans would become the more numerous and require a larger expenditure from the Public Treasury. In the case of the World War, the numbers involved and the high rates of compensation paid for service-connected disabilities have resulted in expenditures during the early years after the war that greatly surpass, and will continue to surpass, those which followed earlier wars.

"The basic criteria which would be established by the bill would have the effect of establishing a separate rate for a certain group of World War veterans without reference to the pension already provided for them under Veterans Regulation No. 1 (a), as amended, part III, and for the particular group which would be eligible under the bill the rate would be \$10 per month higher than the rate provided under the veterans regulation. The definition of permanent total disability, as contained in part III, Veterans Regulation No. 1 (a), as amended, reads as follows:

"A permanent total disability shall be taken to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation and where it is reasonably certain that such impairment will continue throughout the life of the disabled person. Notwithstanding this definition the Administrator of Veterans' Affairs is hereby authorized to classify as permanent and total those diseases and disorders, the nature and extent of which in his judgment is such as to justify such a determination."

That is a quotation taken from the present law. It was a regulation issued by the President but after the expiration of 2 years it became permanent legislation if not changed by Congress, and that was not changed.

"The practice of the Veterans' Administration with reference to determination of permanent total disability is governed particularly by paragraphs 1155 and 1166 of Veterans' Administration Regulations and Procedure, copies of which are enclosed. Enclosed also is a copy of a letter on this subject dated April 6, 1937, addressed to all regional offices and facilities having regional-office activities.

"It will be noted that under Veterans Regulation No. 1 (a), as amended, part III, and instructions thereunder, a liberal and flexible method of determining permanent total disability has been provided and inability to earn a living as a result of impairment of mind or body is given due consideration. It is believed that strict application of the criteria in the bill might eliminate from entitlement to the \$40 rate some cases where the benefits of \$30 per month could be awarded. On the other hand there would be some cases possibly where the rate of \$40 per month would be applied where entitlement to the rate under part III, of Veterans Regulation 1 (a), as amended, could not be awarded. It will be noted also that in some cases evidence of disability insufficient to meet the requirements of part III of Veterans' Regulation 1 (a), as amended, so as to warrant payment of \$30 per month, might be sufficient to warrant payment of \$40 under the bill. This would result in paying a greater pension for a lesser disability."

"The bill does not exclude from benefits those disabled as a result of their own misconduct nor does it specify the delimiting dates of any war.

"Inasmuch as the intention of the proposed measure appears primarily to affect the rights of World War veterans to pension for disabilities not incurred in or aggravated by service, it is suggested that if amendment to the existing law in this regard is desired that the bill be changed to amend Veterans Regulation No. 1 (a), as amended, part III.

"It is not possible to furnish an estimate of the cost of the bill. It may be stated that an increase in the rate of pension from \$30 to \$40 per month to those now on the rolls under Veterans Regulation No. 1 (a), as amended, part III, alone would cost approximately \$4,727,000 annually, but this should not be considered as a maximum cost.

"In view of the foregoing, the Veterans' Administration cannot recommend the bill for the favorable consideration of your committee.

"Advice has been received from the Acting Director, Bureau of the Budget, that the proposed legislation would not be in accord with the program of the President."

Now, Mr. Chairman, as an enclosure to that letter, I transmitted to you a copy of the instructions which had been issued to all Veterans' Administration regional offices, which I feel is information which the committee would like to have, having to do with the present practice in deciding what veterans of the World War are entitled to receive the \$30 rate.

This is addressed to all regional offices and facilities having regional office activities, under date of April 6, 1937. [Reading]:

"It is desired to impress on all concerned the importance of more uniform and more detailed compliance with the provisions of Regulations and Procedure R-1142 and Regulations and Procedure R-1166 (C)."

Now that has to do with these ratings under part III.

"All cases involving allegations, on the part of the veteran or his representative, that the rating schedules, or regulations controlling evaluation (including regulations regarding permanent total disability) are inadequate, will be submitted

direct to the Director, Veterans' Claims Service, without the necessity of a favorable determination by the rating agency as to the meritorious character of the submission.

"Such cases will, of course, be distinguished from those involving allegations that the facts have been improperly determined, or that the schedules or regulations have been incorrectly applied. This latter class of cases requires reference to the Board of Veterans' Appeals under established procedure if an appeal is involved.

"The submissions under Regulations and Procedure R-1142 will hereafter include, in addition to the case file and items now prescribed, (a) the nature, dates, and circumstances of last regular employment, with name and address of employer or firm, and of the immediate supervisor; (b) similar information regarding any temporary employment engaged in subsequent to last regular employment, including employment on any public or relief projects; (c) efforts to secure employment, including names, addresses, and business connections of persons contacted, and whenever registration has been made with the United States Employment Service or other public-employment service, places, and dates of such registration.

"The veteran desiring to have his claim submitted for Central Office consideration under Regulation and Procedure R-1142 will be expected to furnish the names and addresses required to obtain the above evidence, and the Adjudication Division (or the Claims Division, Veterans' Claims Service, Central Office) will be expected to write to each address furnished. Facts regarding the veteran's disabilities, age, etc., will not be divulged. The persons addressed will be advised that the correspondence is in connection with the veteran's claim that he is unable to follow a substantially gainful occupation (or that he is exceptionally handicapped by reason of his disability, if the claim relates only to inadequacy of a partial rating), and will be particularly requested to advise as to the veteran's efficiency, and as to any knowledge they may have of disease or injury suffered by the veteran which led up to termination of employment, or denial of employment. Particular inquiry should be made as to whether age or State workmen's compensation laws have interfered with employment. Form letters may be used. Return addressed official envelopes, requiring no postage, may be enclosed. The evidence thus secured will be carefully checked against the facts of record in the case file. Personal contact or investigation will be resorted to only in the event of substantial discrepancies or inability to secure necessary information otherwise.

"The same type of information and evidence may be requested in doubtful cases under Regulation and Procedure R-1166 (C) when unemployment is alleged, prior to the determination by the rating agency of original jurisdiction.

"You are requested to have copies of this letter prepared for, and brought to the attention of, the adjudication officer and each rating specialist, as well as to contact representatives and others concerned, and to report by letter to this office in about 1 month, covering your action and observation of the effect of, and difficulties with, this procedure.

"REGULATIONS AND PROCEDURE, VETERANS' ADMINISTRATION

"Combined ratings

"1155. (A) When there are two or more ratable disabilities, combined ratings following the tables and rules prescribed in the appropriate schedule, are authorized under the 1933 schedule or the 1925 schedule, whichever is applicable in the individual case.

"(B) Under Veterans Regulation No. 1 (a), part IV, a combined rating under the 1933 schedule is authorized as between ratings for one or more disabilities resulting from wartime service and ratings for one or more disabilities resulting from peacetime service.

"(C) For the purpose of determining the existence of permanent and total disability under Veterans Regulation No. 1 (a), part III, evaluations for diseases or injuries service connected under Veterans Regulation No. 1 (a), parts I and II, may be combined with evaluations for diseases or injuries not shown to be connected with active military or naval service.

"(D) Pursuant to section 202 (15), World War Veterans Act, 1924, as amended, reenacted by Public, No. 141, Seventy-third Congress, a veteran of the World War, as defined by Public, No. 141, Seventy-third Congress, suffering from a disability of compensable degree connected with World War service, who is entitled to a pension for a service-connected disability by reason of other military or naval service, is entitled to the evaluation and combination of his compensable and

pensionable service-connected disabilities in accordance with the Schedule of Disability Ratings, 1925, and extensions thereto. Therefore, when a World War veteran served in other war- or peace-time service, it is necessary to evaluate his disabilities incident to such other service under the Schedule of Disability Ratings, 1925, and the Schedule for Rating Disabilities, 1933: *Provided, however, That no evaluations will be made pursuant to the latter schedule for disabilities incident to service prior to April 21, 1898.*

"(E) Ratings for disabilities acquired in peacetime service may not under section 202 (15), World War Veterans Act, 1924, as amended, be combined with a rating for a disability acquired prior to April 6, 1917, merely because the compensation being paid for the latter disability on March 19, 1933, is protected by section 28, title III, Public, No. 141, Seventy-third Congress.

"(F) Where there is doubt as to whether a veteran, who served during a war period and a peacetime enlistment, is entitled to combination and payment at wartime rates because of disabilities connected with peacetime service, or there is doubt as to the manner of combination, the case will be submitted to the Veterans' Claims Service, central office, for review and appropriate advice. (January 25, 1936.)

Total disability ratings under Public No. 2, Seventy-third Congress, and the 1933 schedule

"1166. (A) Total disability will be considered to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation: *Provided, That permanent total disability shall be taken to exist when the impairment is reasonably certain to continue throughout the life of the disabled person.*

"(B) The following will be considered to be permanent total disability: The permanent loss of the use of both hands, or of both feet, or of one hand and one foot, or of the sight of both eyes, or becoming permanently helpless or permanently bedridden.

"(C) Total disability ratings, however, may be assigned without regard to the specific provisions of the rating schedule, except as outlined herein, when the disabled person has for a period of 6 months or more, been unable, by reason of impairment of mind or body, to follow a substantially gainful occupation, that his physical or mental disabilities are deemed by the rating agency to be sufficiently severe to produce this occupational incapacity, and that, if there is only one disability, this disability shall be ratable at 70 percent or more under the rating schedule, and if there are two or more disabilities, there shall be at least one disability ratable at 60 percent or more, and sufficient additional disability to bring the combined rating to 80 percent or more: *Provided, That ratings of total disability will not be predicated on single disabilities for which the rating schedule fixes a rating of less than total for maximum severity. Nothing contained in this paragraph will prevent a total disability rating for such disabilities and combinations of disabilities, including loss of use of two extremities, or loss of sight of both eyes, or being helpless or bedridden, and other disabilities, as are assigned specific ratings of 100 percent for the severity in question, but if the disabled person is employable, exact compliance with the terms of the schedule for such ratings will be required. When total disability under this paragraph is under consideration the veteran will be required to submit a statement in affidavit form covering his employment, or unemployment, over a period of at least 1 year.*

"(D) The authority granted the Administrator under Veterans' Regulation No. 1 (b) for purposes of part III, Veterans' Regulation No. 1 (a), to classify as permanent total those diseases and disorders, the nature and extent of which, in his judgment, will justify such a determination, will be exercised on proper submission under R. & P., R-1142 (Jan. 25, 1936).

"[(E) With actual progressive deterioration of the vision, so that the disabled person becomes blind in both eyes, or so nearly blind as to qualify under R. & P., R-1166 (C), a permanent and total rating will not be withheld, notwithstanding that the underlying diagnosis is a congenital defect, provided the other requirements for the benefit are met. It is to be borne in mind that the essential requirement in this regard is actual reduction of the vision, so that the person, formerly able to see well, or fairly well, has become, as a result of physical changes, occupationally blind.] (Oct. 14, 1936.)"

The object of that letter, gentlemen of the committee, was with a view of liberalizing my administration in regard to such ratings, taking into account the effect of such factors as unemployment, the man's environment, his age, and those qualities which determine greatly his ability to obtain employment and carry on.

The measure, as I see it, in its major effect, would be to increase the rate being paid to the permanent-total disability cases.

Actually, I believe under existing legislation so far as the World War group is concerned, as indicated by this letter, there can be and is a liberal interpretation of the law in the case of those men who are unable to carry on.

I feel that I should say to the committee, or should again say to this committee, what is important, I believe, in dealing with a question of this kind.

When the Economy Act was passed and disability allowance repealed, I feel confident that if there was any one measure on the statute books that resulted in that drive for economy it was disability allowance. I know that I cannot in any way say that I know anyone was to blame, because those of the committee who were here at that time and myself will remember very well that the legislation providing for disability allowance was a compromise, to meet the effort being made to extend the date for presumptive service connection under section 200 of the World War Veterans' Act. In other words, there were certain cases in which a 10 percent disability was not manifest until after January 1, 1925, and an effort was being made to extend the period for presumption of service connection forward 5 years, as I recall, from January 1, 1925. A compromise resulted in legislation providing for disability allowances for non-service-connected disabilities. The result was that we had on the rolls on March 31, 1933, 425,894 disability allowance cases. They were classified in this manner: In the \$12 rate, which was for 25 percent disability there were 280,435 cases; in the \$18 rate there were 95,573 cases; in the \$24 rate there were 22,181 cases; and in the \$40 rate there were 27,705 cases.

All of them, following the Economy Act, were taken off the rolls except the permanent and totally disabled, which was a group receiving \$40 a month.

Now the committee will be interested in knowing to just what extent those men are now going on the rolls.

As of March 31, 1937, we had on the roll 40,348 non-service-connected permanent total disability cases, which are the \$30 cases, as against 27,705 such cases when the act was repealed.

The Director of the Veterans' Claims Service advises me that if we were to follow the strict interpretation of the insurance companies, in putting these men on the roll, that they would go on at about an annual rate of 5,000 a year.

The CHAIRMAN. Why should they not go on on that basis or at the rate that you mentioned?

General HINES. That would be what we would call, Mr. Chairman, a strict interpretation of the "permanent and total" disability cases. Cases come to me, however, where the disability itself does not meet the strict interpretation of the definition "permanent and total" but which are meritorious and are allowed under that present regulation, which places certain discretion in the Administrator. As a result of that, total permanent non-service-connected disability cases are now going on the rolls at the rate of about seventy-five hundred a year, and probably a liberal interpretation of this bill might bring on as many as 10,000 a year.

Mr. Wood. How many did you say?

General HINES. Ten thousand a year. It is difficult for anyone to estimate that and we have not attempted; we have only submitted an estimate of the increased cost on account of those who are now on the roll, but we should consider that this is, of course, increasing service pension.

It is for this committee to determine whether it feels that you have reached a time when you should go into a more elaborate pension system for the World War group. Personally, I feel that taking into account the age of the World War group, the large expenditure that would necessarily follow, no matter how you may start with them, assuredly would eventually bring about very extensive expenditures. The condition of the country at that time may be such that we can afford it, but personally I feel that existing law with the limitations that we have for this group of veterans is adequate.

There may be some argument as to whether we should put it back to \$40 a month, to what we had it before the Economy Act went into effect. Feeling as I do that the administration at this time does not desire to extend expenditures, necessarily, I feel that, if possible, we should avoid that.

Now there is another item which comes into the picture since we had the original enactment, and that is the extent to which the present laws, your social-security laws, are going to affect this problem, and I feel that the committee would be interested in knowing just what is going on in that connection.

These men, of course, have not reached as to age the point where they can get the old-age assistance. However, I find that 47 States, including the District of

Columbia, Alaska, and Hawaii, have enacted legislation in line with the Social Security Act, and 40 States have adopted laws where the age limit is 65, and 7 States have made 70 the age limit.

Now the other features of the act, for instance, relating to unemployment compensation will undoubtedly affect some of these men who are unable to carry on; to what extent only experience with the Social Security Act will be able to determine.

Now, Mr. Chairman, I should like to insert in the record—I will refer to it now and it will be put in the record later—I should like to give you the number of veterans of the non service groups that are now on the rolls under the various wars, and their rates.

This table shows the groups with monthly pay rates extending from \$6 up to \$100. It shows that we have in the World War group 5,541 World War, 1,295 Spanish War, making a total of 6,836, that are now receiving the \$6 rate.

It goes on up and we find that at \$30 we have the greatest number of the World War group, nonservice, 34,807. However, you have of the Spanish War group receiving less than \$30 a month, 15,223 receiving \$25 a month; you have 307 receiving \$24 a month; and you have 9,039 receiving \$20 a month; and then a less number receiving smaller amounts. How many of those would be qualified under this bill it is difficult for me to estimate.

The CHAIRMAN. Would any of them again be qualified under this bill?

General HINES. They might, if they could show that they were needy, and unable to either support themselves or carry on. This bill does not necessarily require that they be permanently and totally disabled according to our definition. It could be made that way, however.

The CHAIRMAN. That is one of the points that I would like to get clear in my mind as a Congressman and as a member of this committee, and perhaps other members of the committee feel the same way about it. It bothers me a great deal and I am sure it must be bothering others likewise. It is a question, if a man cannot make a living is he totally and permanently disabled?

General HINES. It would depend a great deal upon the man, Mr. Chairman. Some men probably would reach a conclusion after many years of effort to carry on that they could not carry on. Such a man may not be permanently and totally disabled physically, but there would be a combination there of mental attitude and of physical inability which would result in him not being able to carry on. It isn't a question, Mr. Chairman, to which you can say "yes" or "no." I think you would have to treat each individual case by itself.

The CHAIRMAN. I agree with you that it is an individual case; but if it is possible for us to arrive at a conclusion, that is, if the Veterans' Administration can help a man who is not in a position to earn a livelihood for himself on account of his physical disability, or his mental attitude, or otherwise, why, in such a case, I never could understand just why he was not permanently and totally disabled, unless there is some chance for him to recover. Why is he not permanently and totally disabled?

General HINES. Mr. Chairman, that problem is cropping up all the time. Here we have meritorious cases where, under a strict interpretation of "disability," it does not entitle you to a total rating. In such a case take a combination of the man's physical disability and then his mental capacity, his age, and the environment that he is in, and a record of his experience in employment; if that has convinced us that he cannot carry on, we have put such cases on the total disability list. A number of such cases come to me and they all go over my desk, practically all of them. There is, however, one thing that I feel that we should always keep in mind.

I have had a lot of experience with ex-service men and I have also had a lot of experience with the Regular men, with men who served in the Army. That experience has caused me to reach a conclusion that the great majority of the veterans desire to stand on their own feet and earn a living; they desire an opportunity to do that. Now, in the last few years, due to conditions, there has been great pressure put on Congress, and it has likewise been put on us because it has not always been possible to keep all of those men employed, and when they cannot find anything to do I think it is perfectly natural that, having served their country, they try to get their country to do something for them. Now, that attitude is reflected in the number that we have in our homes and it is also reflected in the number that ask for hospitalization when hospitalization isn't entirely the need. The present social conditions are reflected in the demands on Congress for increased compensation and demands upon us for increased rating.

Of course, it is a broad question as to what extent the Government should care for these men who come out of a war without any disability.

I am sure that I cannot express it in any better language than I did when if you will recall we had a joint committee considering what should be done with veterans' laws with a view of eliminating inequalities, and if it is not taking up too much time I would just like to read a section of it:

"A sound national policy dealing with all ex-members of the military forces of our country must rest upon (1) the foundation of the character of military service, (2) equality in benefits, (3) consideration of the degree of disability sustained, and (4) financial need for Government aid where direct-service origin is not a factor. Military service to one's country cannot be evaluated in terms of collars and cents. Gratitude to those who have served their country cannot be so expressed under any policy we might adopt, but we can devise a system of veterans' relief which will insure that benefits are granted equitably to those who are entitled thereto. Our national policy should contemplate that those given Government benefits be placed upon an honor roll; that this national obligation extend first to those having disabilities incurred in or aggravated by military service; and second to those who, while not suffering from disabilities directly attributable to military service, have become through age or disability unable to carry on for themselves. It does not seem unreasonable to hold that Government relief should be given only to those in the second group unable to provide for themselves. The veteran in necessitous circumstances (of the last group) should be given the first relief, the first bed in a hospital, the first consideration generally. I can see no reasonable justification for a veteran in this non-service-connected group applying to his Government for aid when he is able to provide for himself. If we lend countenance to the idea that any young man who renders military service to his country should thereby feel entitled to a reward for such duty, then it seems to me we are undermining the very foundation of good citizen, ship and proper self-respect. To a veteran who comes unscathed through a war the Government owes its gratitude for his patriotism, but until the time comes in his life when age or disablement makes it impossible for him to support himself the Government, in my opinion, owes such veteran no more than it owes any other loyal citizen."

Mr. THOMAS. General Hines, let me interrupt you at this point. This proposed legislation deals with veterans who have come out of the war without any disabilities and have incurred disabilities subsequent to their separation from the service.

General HINES. That is approximately correct, but we could probably put it this way: There are men who have disability not service connected, as far as we can show by evidence and their evidence before the rating agencies in the Government. Some of them I am sure feel that the war had a great deal to do with their present condition—to what extent I doubt if any man can tell. In other words, you cannot take any young man here, pull him out of his particular environment and throw him into camp, and some of them were sent overseas, without some change taking place in them.

Mr. THOMAS. In regard to those men who had service-incurred disability, how much do you pay them?

General HINES. Those who had service disability get from \$10 to \$100 with special rates for blindness and so on.

Mr. THOMAS. All the way from \$10 to \$100?

General HINES. Yes; all the way from \$10 to \$100.

Mr. THOMAS. And this group asks what?

General HINES. This group asks \$40 and covers the non-service-connected group.

The CHAIRMAN. And this bill proposes to give to that group for non-service-connected disability, \$40.

General HINES. By that you mean those who are permanently disabled as against service connected.

The CHAIRMAN. We take the position that a man who is not able to earn a living is totally disabled, and you will give him \$40.

General HINES. Yes, sir.

Mr. THOMAS. Whereas a man now permanently disabled gets \$100.

General HINES. Yes; that is for the World War permanent total service-connected cases. This table [indicating] shows the rates and the eligibility criteria for service pension established for the World War and other wars and then it gives what is proposed under this bill.

I think, if I refer to the existing World War service pension provisions as established under Public, No. 2, Seventy-third Congress and Veterans Regulations, we find that there is not much difference except in the rate until you do

come to the criteria. The criteria of this bill are more liberal in our interpretation of it than the existing regulations. Let me read this: Take the number of days' service, that is the same. The rate is \$30 now as against \$40 under the proposed law.

No. in regard to the criteria for disability the present law provides that [reading]:

"Any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation and where it is certain that such impairment will continue through the life of the disabled person. The Administrator is authorized to classify diseases and disorders as permanent and total where justified in his judgment."

Misconduct is a bar; and of course it has in this new bill the income provision.

This proposed bill that we are now considering says [reading]:

"Mental or physical disabilities of a permanent character which so incapacitate the veteran as to result in his inability to earn a living."

Misconduct is not a bar although the income provisions are in.

Mr. WOOD. General HINES, as I read this bill, it deals with a man who receives disability in the service in line of duty; it does not deal with any other.

General HINES. No, as I understand it deals with men who have no disability in line of duty, it is a service-pension group with disability not chargeable to service.

Mr. WOOD. It says [reading]:

"that any person who served 90 days or more in the active military or naval service of the United States during any war, who was honorably discharged therefrom."

General HINES. If you will read further it says "or who, having served less than 90 days was discharged for disability incurred in the service in line of duty." In that instance they have waived the 90-day provision where a person was discharged for disability incurred in line of duty.

Mr. WOOD. This says "that has been incurred in line of duty" and no other.

General HINES. Yes, this deals with those who were 90 or more days in the service or who were a less number of days in the service but who were discharged because of disability incurred in line of duty.

Mr. WOOD. It does deal with men who incurred the disability not in line of duty.

General HINES. Yes, I can better explain that by stating that there are two groups involved: The first group is that comprising persons who served 90 days or more in active military or naval service of the United States during any war who were honorably discharged therefrom; and the second group comprises those who have served less than 90 days but were discharged for disability incurred in the service in line of duty. Now, a man to be eligible must have had 90 days or he must have been discharged for disability from the service.

Mr. WOOD. Now, General, as a matter of common justice why shouldn't a man who joined the Army in good faith and happened to be disabled in line of duty in less than 90 days or if he joined the Army and war ceased before 90 days, why shouldn't he be pensioned if he was permanently disabled and was not able to make a living as well as a man who serves 90 or 100 days? It seems to me that such a man should be entitled to a pension as well as the other.

General HINES. Any one of these men who sustains disability in line of duty is compensated according to the degree of his disability. Now this proposal, however, proposes that that man who is entitled to \$10 for service-connected disability and has any other disability which renders him permanently and totally disabled, would get the \$40 a month. In other words, say that \$10 represented only 10 percent service-connected disability; the other 90 percent of his disability would be nonservice. If that man had a service-connected disability which reached a point where he would be permanently and totally disabled therefrom, he would get \$100 a month.

Mr. WOOD. Now, as a matter of fact, except for misconduct, any veteran now who is permanently and totally disabled gets a pension?

General HINES. Yes, sir.

Mr. WOOD. Whether in line of duty or not in line of duty?

General HINES. He gets \$30 now in the World War group, and we have 40,000 of them.

The CHAIRMAN. This bill would raise the rate from \$30 a month to \$40 a month.

General HINES. Yes.

Mr. THOMAS. What did the veterans get before the Economy Act went into effect?

General HINES. Forty dollars a month. This proposed bill puts it back, but, as the chairman explained at the beginning of the hearing today, it applies to not only the World War group, but to all groups if they are eligible.

I feel confident that most of the Civil War would not come in nor would most of the Indian War, because the rates of those groups are higher, but we would have some men of the Spanish War who are now drawing less than \$40 a month.

Mr. WOOD. General Hines, I want to finish my line of questioning. How much do you save by eliminating the boys drawing disability allowance through the Economy Act?

General HINES. About 91 million dollars a year based on what would have been spent had the prior laws remained in effect. In other words, we would have put back a total saving under the Economy Act of about 410 million dollars for all benefits which would have been effected under Public, No. 2.

The total economics, insofar as veterans' relief was concerned for the fiscal year 1934, was 410 million dollars. However, before this became effective the President put back by his own regulations over 100 million dollars; Congress by amendment to the Economy Act has put back all but 200 million dollars a year and that is largely represented by the group of disability allowance cases rated less the permanent and total and the change in the rate from \$40 to \$30.

Mr. WOOD. Most of that was put back; men were just drawing an allowance?

General HINES. That applies to only permanent and total disability cases.

Mr. WOOD. What is your estimate that this would cost?

General HINES. About \$4,700,000. I take into account only the increase of rate of those who are now on the rolls and of the World War group.

Mr. Chairman, we haven't talked much in this committee, as I recall, on the question of what may happen if we embark upon a pension policy for the World War group and I do not wish to be accused of blocking this legislation by giving you this information, but I feel that you should have before you a little actuarial data that shows the number of these veterans that you will have to deal with on some basis.

The CHAIRMAN. As you state, it is something that we are going to have to do in the future.

General HINES. Of course, I would be presumptuous to predict, or you would be presumptuous to predict, but this is an estimate that is made up strictly on an actuarial basis, except the rates. You can attach any rate you wish.

This is the estimated additional cost of paying a pension of \$60 a month to World War veterans who attained the age of 62 years or 65 years. This table is made up showing the number from 1937 to 1996. I am only going to refer to 1 year.

The estimated number of living veterans of the World War at the beginning of the year which would be age 62 or over in 1961 would be 2,564,295. If all of that group by that time were on the pension rolls at the \$60 rate, which is the rate which is paid some veterans, taking in men who had reached the age of 62 years and who would be eligible under a bill similar to the Spanish-American War bill, the estimated additional annual total over and above what we are paying now would be \$1,508,727,786.

I had the same estimate for age 65. The peak in that is reached 2 years later in 1936 when the estimated number of living veterans of 65 at the beginning of that year would be 2,213,841 and the particular cost for taking them on at age 65 would be \$1,299,596,787.

Mr. WOOD. Does that include the building of the two battleships?

General HINES. Well, sir, that is an estimate of what the pensions would cost.

Mr. WOOD. Dependent upon the total number of living veterans on that day?

General HINES. Yes; it is an estimate of the total number of veterans living as of that day and it gives the total cost per annum if they were all on the rolls.

Mr. WOOD. Have you an estimate as to how many would come in under the law? Would you know that?

General HINES. We could not estimate that at this time. I have not made an estimate of the \$40 rate because most certainly they would not all be put on the permanent and total disability rolls; this is made up and based purely on straight age expectations, based on what we have found for the Spanish War, the Indian wars, and the Civil War.

Mr. WOOD. Would it be safe to say about a half or a third?

General HINES. Well, your guess would be as good as mine. The only thing that you can base a table of this kind on is actuarial experience and the moment that you go beyond that you get into speculation.

The CHAIRMAN. I would like to ask you, General Hines, in regard to H. R. 5331, a bill which the World War Veterans' Committee has already approved and has passed the House. That bill grants a higher rate. What effect would

this bill have on that bill? That bill will care for those having paralysis and paresis. Our bill would apply to those also. That rate is much higher than this.

General HINES. That bill simply has this effect: In the old World War Veterans' Act, prior to the Economy Act, when these men suffered from paralysis, paresis, or blindness or became helpless and bedridden from misconduct disability, they were paid compensation; they were paid compensation at the higher rate, of course. Of course they were paid compensation at the World War rate. However, if they are in one of our institutions, without dependents, they would have that rate reduced to \$15 a month. Now this bill would have really no effect on that group because that bill which has passed the House makes those men eligible for benefits under the World War Veterans' Act at the service-connected rate of the World War Veterans' Act as it was prior to the enactment of the Economy Act, subject to the limitations of Public, No. 141, Seventy-third Congress, except misconduct. These have to be of course service-connected disability although due to misconduct.

The CHAIRMAN. They do have to be service connected for some disability before they would be eligible under that bill.

General HINES. That is right. In other words, it says this: They will not be denied compensation for misconduct disability which is in the bill, when they are totally disabled or helpless or bedridden. In other words, they are then entitled to a higher rate.

The CHAIRMAN. This bill would then only allow those men \$40 a month?

General HINES. No, this bill would not affect those men, Mr. Chairman, as I see it. They would certainly take the higher rate if they could prove total disability for service-connected misconduct disability and it would be only those men who are not eligible under the World War Veterans Act who would come in under this act.

Mr. WOOD. Do you want to take up H. R. 6289 this morning?

The CHAIRMAN. Yes, we want to take it up if we have time.

General HINES. Mr. Chairman, I could give you much more data on this, but I think I have covered the subject.

Mr. SIMPSON. General Hines, a moment ago you said that the President had increased certain of the benefits that were eliminated under the Economy Act. Were any of the benefits increased to cases that were total disability, nonservice connected?

General HINES. No, sir; they were not increased. The major increases were made to the service-connected group, and particularly to the badly disabled, to one group that we call "combat disability."

Mr. SIMPSON. Not to the nonservice group?

General HINES. Not to the nonservice group although by regulation we brought in this particular group originally at \$20 and then raised it to \$30.

Mr. PATTON. Has this Congress taken cognizance of these misconduct cases? A lot of those fellows are in a critical condition.

General HINES. That was, I think, the motive back of the proposed amendment to the law which the chairman has referred to, which came from the World War Veterans' Committee, to take those men back on that were on before the Economy Act went into effect.

Mr. PATTON. There were a lot of those fellows.

General HINES. Yes; there were a lot of them. Now it is difficult to say how many we will have, but we can expect out of a group of 4,100,000 that we will have a large number in that group.

Mr. PATTON. I was surprised to find a large number in my district.

General HINES. Congress by legislation established somewhat of a precedent when it enacted an amendment to the Economy Act, what is known as Public 141 and brought back the service-connected blind cases on the rolls March 19, 1933, regardless of whether they were misconduct or not. Then again the chairman has referred to a still further modification of the Economy Act by putting back other rates that existed prior to the Economy Act.

The CHAIRMAN. Are there any further questions that any member of the committee desires to ask General Hines? If not, we will proceed to the next speaker. Thank you, General.

We will now hear from Millard W. Rice, legislative representative of the Veterans of Foreign Wars of the United States. I might say that I introduced this bill at his suggestion.

SUPPLEMENTAL REPORT—H. R. 8729, SEVENTY-FIFTH CONGRESS

VETERANS' ADMINISTRATION,
Washington, March 18, 1938.

Hon. A. H. GASQUE,
Chairman, Committee on Pensions,
House of Representatives, Washington, D. C.

MY DEAR MR. GASQUE: This is in reply to your letter dated March 9, 1938, requesting that a supplemental report be furnished your committee on H. R. 8729, Seventy-fifth Congress, a bill granting pensions and increases of pensions to needy war veterans. You indicate it is the intention of the committee to amend the bill by striking out all of the language after the enacting clause and inserting the following language:

"That Veterans' Regulation 1 (a), part III, paragraph 1 (e), as amended, be amended to read as follows:

"1 (e) Except as provided in subparagraphs (g) and (h) of paragraph I hereof, no pension shall be payable under part III for permanent disability less than total. A permanent total disability shall be taken to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation individual to earn a support by the performance of manual labor where it is reasonably certain that such impairment will continue throughout the life of the disabled person. Notwithstanding this In addition to the cases covered by this definition the Administrator of Veterans' Affairs is hereby authorized to classify as permanent and total those diseases and disorders, the nature and extent of which in his judgment is such as to justify such a determination."

"Sec. 2. That Veterans' Regulation 1 (a), part III, paragraph 1 (f) be amended to read as follows:

"1 (f) The amount of pension payable under the terms of part III shall be \$30 \$40 monthly: Provided, That—"

Part III, Veterans Regulation No. 1 (a), as amended, was promulgated by the President under title I of Public, No. 2, Seventy-third Congress. It provides a monthly pension of \$30 to any person who served in the active military or naval service for a period of 90 days or more, during either the Spanish-American War, the Boxer Rebellion, the Philippine insurrection, or the World War, and who has been honorably discharged therefrom, or who, having served less than 90 days, was discharged for disability incurred in the service in line of duty, who is shown to have been in active service therein before the cessation of hostilities and who is suffering from permanent total disability not the result of his misconduct and which is not shown to have been incurred in any period of military or naval service. Pension may not be paid to any unmarried person whose annual income exceeds \$1,000, or to any married person or any person with minor children whose annual income exceeds \$2,500.

The change in the wording of subparagraph 1 (e) of part III, Veterans Regulation No. 1 (a), as amended, as proposed by the bill, is to substitute the words "individual to earn a support by the performance of manual labor", for the words "average person to follow a substantially gainful occupation". The amendment would also strike out the first two words "Notwithstanding this" in the last sentence of subparagraph 1 (e) and substitute the words "In addition to the cases covered by this". In the opinion of the Veterans' Administration these proposed changes would have no practical effects. The present laws and regulations authorize the Administrator to rate, as far as practicable, on the basis of average impairments in earning capacity. This authority has been construed to permit the consideration of cases on an individual rather than on an average basis when the veteran is unemployable as the result of any severe disability.

The substitution of the provision "to earn a support by the performance of manual labor" for "to follow a substantially gainful occupation" would effectuate no change in practice for the reason that the term "manual labor" as used in the Spanish-American War service pension acts is defined by paragraph R-2068 (B) of Regulations and Procedure, Veterans' Administration, as "work of a useful character requiring physical or mental effort, but does not necessarily mean work such as work with a pick and shovel."

In view of the existing authority and the foregoing comments, if further consideration is given to this proposed amendment to H. R. 8729 the same results would obtain if the proposed amendments were confined to section 2 of the draft which would amend Veterans Regulation No. 1 (a), part III, paragraph 1 (f), to change the rate from \$30 to \$40 per month.

The bill would also increase the monthly rate of pension from \$30 to \$40. As of December 31, 1937, the average monthly payment to World War veterans for service-connected disabilities was \$40.10. It will be noted that the proposed increased rate for non-service-connected disabilities would be practically the same as the average payment for World War service-connected disabilities. Further, it is to be noted that the rate for total disability under Veterans Regulation No. 1 (a), part II, for service-connected disabilities incurred other than during a period of war is \$45 per month.

The history of military pensions discloses that over a long period of years the non-service-connected disability group of veterans would become more numerous and require a larger expenditure from the Public Treasury. In the case of the World War, the numbers involved and the high rates of compensation paid for service-connected disabilities have resulted in expenditures during the early years after the war that greatly surpass, and will continue to surpass, those which followed earlier wars. Prior to the enactment of Public No. 2, Seventy-third Congress, March 20, 1933, provision was made by the act of July 3, 1930, an amendment to the World War Veterans' Act, 1924, as amended, for the payment of disability allowance to honorably discharged World War veterans who entered service prior to November 11, 1918, and served 90 days or more in the active military or naval service, and who met the other requirements of that act. Benefits were payable at the rate of \$12, \$18, \$24, and \$40 per month for permanent disabilities rated at 25, 50, or 75 percent, or total permanent disability, respectively. One of the reasons which led to the enactment of Public No. 2, was the feeling that the disability-allowance law was too liberal and that a retrenchment should be effected in the field of non-service-connected benefits to World War veterans. Public No. 2, repealed the disability-allowance provision and under that act and the veterans regulations promulgated pursuant thereto provision was made for the payment of non-service-connected pensions to World War veterans only for permanent total disability and at the rate of \$30 per month.

Inasmuch as it is believed that the Government's first obligation should be to those disabled in active duty in the military or naval service, and to the dependents of such persons who die as a result of such disability, and bearing in mind that in at least one instance in the past relief extended to non-service-connected groups, as the result of depression, resulted in decreased relief to service-connected groups, as witness the effect of Public No. 2, Seventy-third Congress, the increase in the monthly pension rate as proposed by the bill from \$30 to \$40 is not recommended.

Based on the estimated number of permanent total cases which will be on the rolls under part III of Public No. 2, it is estimated that the payment of these cases at a \$40 rate would involve an expenditure of approximately \$5,170,000 for the fiscal year 1939 for World War cases providing increased payments to approximately 43,000 veterans. In addition, it is estimated that there are approximately 100 Spanish War veterans who would be entitled to increases at an annual cost of \$12,000 or a total of \$5,182,000 for the first year.

In view of the foregoing, the Veterans' Administration is unable to recommend this proposed amendment to the favorable consideration of your committee.

You also informally requested an estimate of cost on this bill providing an increase in the monthly pension rate from \$30 to \$35 per month. It is estimated that this proposal would provide increased rates for approximately 43,100 permanently and totally disabled nonservice-connected veterans at a cost of approximately \$2,591,000 for the fiscal year 1939. This includes 100 cases of Spanish War veterans at an annual cost of \$6,000.

Advice has been received from the Acting Director, Bureau of the Budget, that this proposed amendment to H. R. 8729 would not be in accord with the program of the President.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. Is there anyone else from the Administration who wishes to make a statement? Are there any questions?

General HINES. There is nobody who desires to be heard on it from the Bureau.

Senator GEORGE. Now, we will hear from representatives of the veterans' organizations. Mr. Rice, do you desire to be heard on this bill, H. R. 8729?

**STATEMENT OF MILLARD W. RICE, LEGISLATIVE REPRESENTATIVE,
VETERANS OF FOREIGN WARS OF THE UNITED STATES**

Mr. Rice. Mr. Chairman, and gentlemen of the committee: Our organization, the Veterans of Foreign Wars, believes that this proposed legislation is very highly justifiable, for two reasons: First, in order to liberalize the yardstick of eligibility for the benefit provided, and, second, to increase the amount of the benefit provided for those who are permanently and totally disabled from \$30 to \$40 per month.

It is estimated that this would provide an increase of \$10 per month to about 43,100 men, and would also provide such \$40 pension for some additional veterans not now receiving such benefit.

The yardstick of eligibility would, in our opinion, be considerably liberalized, in view of the fact that the language would be changed specifically so as to direct that the determination of eligibility would be made on an individual basis rather than on an average basis. The law now provides that the rate shall be made on the basis of the average impairment of mind and body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, whereas the language of this bill, as we propose it should be amended, would provide that a permanent and total disability shall be taken to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the individual to earn a support by the performance of manual labor, where it is reasonably certain that such impairment will continue throughout the life of the disabled person.

We believe that changing the basis of eligibility from an average loss, or from the impairment of an average person, to the individual person, will make it possible for the Veterans' Administration to grant benefits to many individuals who are not now eligible.

Let me make that more clear by citing the fact that there are many individuals who have disabilities, lack of education, lack of training, lack of resourcefulness, and whose only ability originally was a physical ability, when they lose that physical ability—even though it may be rated as 50 or 60 percent, or even 40 percent, medically diagnosed and medically evaluated—they have lost all that they have, and therefore they become, in effect, totally disabled from an industrial standpoint.

It is true that under the law as it now is, the Veterans' Administration can grant total and permanent benefits to those men if the case is considered by the Administrator himself. We believe, however, that the liberalization should be such that the determination could be made not only by the Administrator himself but by the rating agencies in the field throughout the country.

The Veterans' Administration states that the effect of the application of the proposed change of language would be nil. If that be the case, and since we believe that the language would considerably liberalize the basis of entitlement, we make the plea to you gentlemen that that basis of eligibility should be changed so that the law would specifically direct and authorize the Administrator of Veterans Affairs to grant such benefits on the individual basis rather than on the average basis. It is not our contention that the Veterans Administration cannot do these things, but we believe there would be a more specific direction on the part of Congress that the cases should be considered

on the individual basis rather than on the average basis, if this change were made in the law.

That was made particularly apparent by the debate which occurred in the House when this bill was under consideration, several Members having specifically asked the question of the various members of the committee that had the bill in charge, as to whether or not it was intended that the bill should liberalize the basis of eligibility; each time the answer very specifically indicated that it was to be the intent of Congress that it be liberalized.

True this does not set up the precise standards, because we believe that should rest within the discretion of the Administrator. We realize that there are some cases where a man might, from a medical standpoint, be held to be suffering from a permanent and total disability, who might, nevertheless, be employable. It is our contention primarily that we want to take care of those cases which are suffering from disability, superimposed on such inability, as results in their inability to be employable. In other words, disability resulting in unemployability would be, in effect, the basis of entitlement for the benefits to be provided for in this bill.

Forty dollars a month was the amount of pension provided for those who were permanently and totally disabled by reason of non-service connected disabilities, prior to the passage of the so-called Economy Act. There has been no restoration whatsoever to this group. This bill does not endeavor to restore the entire disability allowance law; it merely endeavors to restore the amount provided for those permanently and totally disabled, plus a slight liberalization in the definition of permanent and total disability as the basis of eligibility. It does not propose to restore any benefits to those who are 25 percent disabled, or 50 percent disabled, or 75 percent disabled, as was provided for under the disability allowance law.

We do, however, contend that this law will prove to be possible of flexible application on the part of the Veterans' Administration, so that it may be permitted to take into consideration various facts and circumstances which determine relative or marginal unemployability to such an extent that it will be possible, with the increasing age of veterans, plus increasing disabilities which result in unemployability, for the Veterans' Administration to take care of such border-line type of cases.

I am sure each of you gentlemen, within your experience, have had many cases that have been presented to you where, from all practical standpoints, the veterans are in effect definitely unemployable and are a burden on the local community, where somebody has had to take care of them, either a relative, a friend, or some veterans organization, the Red Cross or private charity of one kind or another. Suffice it to say these men who are permanently and totally disabled, who are unemployable by reason of some disability, are a burden upon society, and we believe that burden should be sustained by the Federal Government.

We contend that because of the fact that veterans are not now located in States, counties, and cities in the same proportion as the number who enlisted from such local communities and States. For example, the States of Arizona, New Mexico, Colorado, California, Washington, Florida, New Jersey, and the District of Columbia have a much greater percentage of ex-service men than the number of

such men who enlisted from those States. At the same time there are a greater number of veterans residing in those States, proportionately to the number who enlisted, who are now suffering from permanent and total disability and who have become a burden upon society in those particular States. Therefore, in effect, those States, local communities, and municipalities where such veterans are residing have been obligated to sustain an unusually large portion of the burden of taking care of these men. In any event we believe that these men ought to be taken care of by the Federal Government.

The Federal Government has always assumed the responsibility of taking care of veterans of past wars who have become so disabled as to become unemployable. Let me remind you of the fact that veterans of the Civil War who were totally disabled, in fact all of them now, are receiving \$100 per month. Let me also remind you of the fact that the veterans of the Spanish-American War who are totally disabled receive \$60 a month, and if so disabled as to be in need of attendants receive \$72 a month. Let me remind you that Congress passed a bill, which is now on the President's desk, which would provide for the Spanish-American War veterans who are totally disabled and in need of an attendant the sum of \$100 per month. That gives you the precedents which have been established by the Nation, by a grateful people to veterans for what they have done toward the building up and service of the Nation.

As to the remark that the average compensation that the service-connected World War veteran is receiving, an average of \$40.10 per month, let me also supplement that by stating that more than 30 percent, I believe it is, of the World War veterans who are receiving compensation for service-connected disabilities receive less than \$20 per month, and more than 50 percent of that same group of compensated service-connected World War veterans receive less than \$30 per month. Therefore, a statement as to what the average check is for the average individual is not at all indicative of what is being paid to the average veteran, when you realize that 50 percent of them are receiving less than \$30 a month. It is the high amount paid to the relatively few which brings up the average, and the average check is not at all indicative of what is paid to those who are permanently and totally disabled by reason of service connected disabilities, that is, \$100 per month. Therefore, the average check of \$40.10 to the average compensated World War veteran is not an apt comparison, according to our belief.

As to the eligibility for social security benefits, let me remind you that no one is eligible until after he has arrived at the age of 65. Many of these veterans, now at the average age of about 46 years, who are permanently and totally disabled and unemployable cannot afford to wait until they reach the age of 65.

It is true that there are, on the registers of the local public-employment offices throughout the country, nearly 455,000 unemployed veterans. We believe that the total number of unemployed veterans perhaps approximates 750,000. We do know that there are many veterans who have previously been registered with the local employment offices who are entitled to have their names placed on the register but who, in March and April, in a concerted attempt to bring about the registration of all unemployed veterans, failed to do so because of the experience they previously had in being so registered for many months,

going back time and time again to be registered and never getting any employment. A splendid service has been rendered by the United States Employment Service, but obviously they have not been able to provide jobs or employment for these men unless there were jobs available.

This, however, does not deal with the question of employment, except it possibly indicates more definitely to the people of the United States that there must inevitably be the alternative of either jobs or pensions for all veterans. We would much prefer it should be jobs, but we do believe, as to those who are so totally and permanently disabled to be unable to earn a living, that they should be taken care of by the United States. Forty dollars a month is a grossly inadequate sum, but it would, nevertheless, be an increase of \$10 a month above the amount received now by those who are permanently and totally disabled. We believe it ought to be considerably more than \$40 a month. Nearly all of the standards set up by the social agencies, by the Social Security Board, the Works Progress Administration, and so forth and so forth, would require considerably more than \$40 a month.

For a man who is so disabled as to be unemployable we believe we are asking for a very conservative amount in these benefits by asking for merely a \$10 increase at this time.

As to the statement that the Federal Government is now called upon to expend an unusual amount of money, that is true. We are not appearing before the committee to debate the question as to the advisability of the spending-lending program, but it would seem very peculiar indeed, I believe, to these 43,000 permanently and totally disabled veterans, as well as to their buddies throughout the country, that the Nation could afford to expend four or five billions of dollars for the spending-lending program and still could not find sufficient money, approximating about \$5,000,000, to provide for this small increase in the amount of benefits provided for these men who are permanently and totally disabled, who are not able to take care of themselves and must be taken care of by somebody in this Nation, either private or public charity or by the State or local community. We believe that that responsibility should be assumed by the Federal Government itself.

I do not think of any other point that needs emphasis at this time, gentlemen. I am sure I appreciate very much the opportunity of appearing before you, and I trust you will give this bill favorable consideration. We consider it of paramount importance.

It might be that these are those who would throw up the scare, the bugaboo, of another economy act. If so, we believe that would be mere fantasy. We cannot, under any circumstances, feel that there would be any justification of throwing any scare of an economy act in the face of an increase in the lending-spending program of about four or five billions of dollars. It would not be at all consistent that there should be the threat against men who are disabled by reason of service-connected disabilities, that there should be another economy program at their expense just because of a slight increase of the very inadequate pension payable to those who are permanently and totally disabled.

Senator CLARK. That is just exactly what happened before, is it not, asking for the Economy Act immediately before we passed the \$3,300,000,000 spending program.

Mr. RICE. Yes, Senator, but we believe that the Senators may, by reason of their observations, have decided not to repeat that particular mistake. It was something that was not justifiable, and we do not believe that members of Congress would give their consent to that kind of an inequitable program at all.

Senator CLARK. I believe it was not justifiable in the first place.

Mr. RICE. We agree with you heartily.

I have with me the director of our national rehabilitation service, Mr. Joe D. Chittenden, and before the hearings are concluded, I would like to have him given the opportunity of making a presentation to you relative to the need, and relative to the liberalization that would be provided for as to eligibility.

May I also have the privilege of submitting a written statement on behalf of the national senior vice commander-in-chief of the organization, Eugene Van Antwerp, who was here yesterday and found he was unable to stay over for the hearings?

Senator GEORGE. Yes.

(The statement referred to is as follows:)

STATEMENT OF EUGENE VAN ANTWERP, SENIOR VICE COMMANDER, VETERANS OF FOREIGN WARS OF THE UNITED STATES, RELATIVE TO H. R. 8729

I had hoped to appear before your committee to offer testimony in support of the provisions of H. R. 8729. A long distance call has necessitated my return to Detroit.

I want to say that in traveling over the country I have met many veterans in Veterans' Administration homes and hospitals who are permanently and totally disabled, who say that they feel that they must remain as patients because they cannot exist on the outside on the \$30 per month pension which they would receive. It costs the Government much more than \$40 per month to maintain them in such homes and hospitals.

This proposed \$40 per month pension for those war veterans who are permanently and totally disabled by reason of non-service-connected disabilities, is a very reasonable, conservative request. Those war veterans who have become unemployable by reason of their disabilities ought to be provided for adequately by the Nation. Thirty dollars per month is really entirely inadequate for these unemployable veterans. To permit those war veterans, who have been relegated to the economic scrap pile, to become mere forgotten heroes, unprovided for, is not conducive to the development of patriotism in the hearts of the observing youth of our Nation.

This bill deserves favorable action at this session of Congress.

Mr. RICE. I would like also that the privilege be extended to the chairman of the national legislative committee, Mr. James E. Van Zandt, to appear before you in behalf of this legislation in the event he arrives before you adjourn.

Senator GEORGE. Very well. Mr. Kirby.

STATEMENT OF CAPT. THOMAS KIRBY, NATIONAL LEGISLATIVE CHAIRMAN, DISABLED AMERICAN VETERANS OF THE WORLD WAR

Captain KIRBY. Mr. Chairman, our organization has taken no action on this bill at all. The Disabled American Veterans have limited themselves exclusively to the service-connected group in our program.

Senator GEORGE. Colonel Taylor.

STATEMENT OF COL. JOHN THOMAS TAYLOR, DIRECTOR, NATIONAL LEGISLATIVE COMMITTEE, THE AMERICAN LEGION

Colonel TAYLOR. Mr. Chairman, and members of the committee: The American Legion endorses this request that the men be put back to what it was in the original Disability Allowance Act, \$40 a month. I believe Senator La Follette has pointed out the situation very clearly, that today your average veteran whose age is over 46 years is finding it increasingly difficult to find employment, both in private industry and in Government employment. It was fixed at \$40 in the original Disability Allowance Act to a non-service-connected permanently and totally disabled veteran, who is in a worse economic situation today than he was at that time even. The American Legion believes this should be restored to the amount in the original act, that is, \$40 a month.

Thank you very much.

Senator GEORGE. Thank you, Colonel Taylor.

Is there any one else who wishes to be heard on this bill, H. R. 8729?

STATEMENT OF GENERAL FRANK T. HINES—Continued

General HINES. Mr. Chairman, may I read into the record the present law dealing with the question of the definition of permanent and total, to show the extent to which we have the authority to do what is being contended here this morning?

Senator GEORGE. Yes.

General HINES. I am reading from part III of regulations issued by the President which are now permanent legislation:

Except as provided in paragraph 1 (g) hereof, no pension shall be payable under part III for permanent disability less than total. A permanent total disability shall be taken to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation and where it is reasonably certain that such impairment will continue throughout the life of the disabled person. Notwithstanding this definition the Administrator of Veterans' Affairs is hereby authorized to classify as permanent and total those diseases and disorders the nature and extent of which in his judgment is such as to justify such a determination.

It is based upon that language that caused me to say that I feel there is no necessity for a change in definition, and that we would practically apply it, with the possible exception that Mr. Rice as pointed out, that for purposes of control we do require those cases to come into a central office to be approved. So we feel that that is necessary, in order that there may not be loose legislation that would eventually jeopardize the list and probably put some on that are now in that category.

Mr. Chairman, I have been called to the White House and if the committee will excuse me I will be glad to return at any time you wish me. In the meantime, Mr. Brady, who is a solicitor of the Veterans' Administration, will be prepared to take up any matters relating to any other bills.

Senator GEORGE. General Hines, there are before the committee several bills calling for appropriations for the construction of hospitals and facilities or additions to existing hospitals or facilities. Would you care to make a statement about that at this time?

General HINES. Yes, sir; I would be very glad to.

Senator GEORGE. I would be glad to have you do so.

General HINES. It would be my suggestion, Mr. Chairman and gentlemen of the committee, that in the matter of future hospital construction that those bill be referred to the Federal Board for Hospitalization, the board appointed by the President, for consideration and recommendation. There has been approved by the Budget and by the President a policy relating to future construction of hospitals. To summarize, that policy contemplates that such additions will be made to hospitals for mental and nervous disabilities in order to meet the peak load as it occurs, asking for money to carry out the recommendations of the Federal Board in the annual appropriation bills. We have been proceeding on that policy in asking for approximately 1,000 additional beds each year. There is such item in the present bill which was recently approved, the independent offices bill, in connection with the large bill for spending for any Government building, and submitted to the Director of the Bureau of the Budget, and with his consent to the chairman of the Subcommittee on Appropriations of the House, and I leaned recently, upon my return to the city, that the Appropriations Committee of the Senate had asked for a copy of that, outlining additional construction aggregating \$12,500,000, based upon surveys already made by the Federal Board for Hospitalization. There are a number of bills pending, and it would be my suggestion that that question should be analyzed in order that we will not build where beds are not needed and build where they are needed, that they be referred to the Federal Board that is giving those matters consideration.

I think that will simplify matters, and I am perfectly confident that those who are sponsoring the bills will be given every opportunity to be heard and that their requests will be considered.

Senator GEORGE. Thank you, General. Is Mr. Chittenden present?

Mr. CHITTENDEN. I have nothing to add, Mr. Senator, to what Mr. Rice has already said.

Senator GEORGE. Very well. If there is no one else who wishes to be heard on this bill, we will close the hearing on H. R. 8729.

I wish to place in the record, before we close this hearing, a statement submitted by Mr. Cornelius H. Bull, judge advocate of the American Veterans Association, and a letter addressed to me by Mr. J. E. Nieman, legislative representative, Regular Veterans Association, both relating to H. R. 8729.

STATEMENT OF CORNELIUS H. BULL OF VIRGINIA, JUDGE ADVOCATE OF AMERICAN VETERANS ASSOCIATION

This bill, H. R. 8729, has as its purpose to give, as an outright gift, \$5,170,000 per year to 43,100 veterans who are suffering from disability in no way connected with their military service.

This association and every other right-thinking citizen is opposed to the further handing out of Government funds to undeserving cases at the expense of the already overburdened taxpayer of this country. There is no reason for such a grant of such money other than "the veterans want it."

This legislation is bad from every viewpoint; it is particularly vicious in that it is but another step toward depriving service veterans who really have service-connected disabilities of compensation and reduces by over \$5,000,000 per year benefits which should justly be paid to dependents of veterans who died of disability actually incurred in their military service.

If such legislation by the Congress continues, there is sure to be, in the not-far-distant future, such a revulsion of feeling on the part of our citizens as will result in a peremptory demand for laws which will penalize veterans and their dependents who are justly entitled to pensions and compensation.

The passage of this bill would constitute another step toward general service pensions, the inevitable aim of selfish veterans groups. Unless the Congress ceases to surrender to the demands of highly organized minority veterans groups, eternally seeking cash, it will lose the respect of the entire country.

If the Senate Committee on Finance can muster the courage to refuse further hand-outs of persons who have not suffered in any way because of service for their country, it will fulfill a really patriotic duty.

There is no possible reason for a favorable report on this bill. Therefore, in behalf of the really disabled veterans, their dependents, and the citizens of the United States, the American Veterans Association vigorously registers its opposition to a bill which has no shadow of merit.

CORNELIUS H. BULL,
Judge Advocate, American Veterans Association.

REGULAR VETERANS' ASSOCIATION,
Washington, D. C., May 20, 1938.

HON. WALTER F. GEORGE,
Chairman, Subcommittee on Veterans' Legislation
Committee on Finance, United States Senate, Washington, D. C.

MY DEAR SENATOR GEORGE: It was the full intention of the undersigned to appear before your committee, this date, in behalf of the bill H. R. 8729. However, I am unavoidably detained and am, therefore, forced to take this medium of announcing the full support of this organization on the bill H. R. 8729, and to urge that said bill be favorably reported, as it restores justice to many veterans affected by the so-called Economy Act of 1933.

With my very best wishes and kindest personal regards, I am
Very truly yours,

J. E. NIEMAN,
Legislative Representative.

(Whereupon, at the hour of 10:45 a. m., the hearing on H. R. 8729 was concluded.)

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